

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT PETITION OF LOUISVILLE GAS)	
AND ELECTRIC COMPANY AND)	
KENTUCKY UTILITIES COMPANY FOR)	CASE NO. 2007-00012
APPROVAL OF SPARE TRANSFORMER)	
SHARING AGREEMENT AND TRANSACTIONS)	
ENTERED INTO UNDER SAID AGREEMENT)	

O R D E R

On January 5, 2007, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively the “Companies”) filed a joint petition with the Commission seeking an Order pursuant to 807 KAR 5:001, Section 8, and KRS 278.218 to approve their participation in the Edison Electric Institute (“EEI”) Spare Transformer Sharing Agreement (“Agreement”) and further approving all transformer sharing transactions the Companies may undertake pursuant to the Agreement. Under the terms of the Agreement, participating utilities may be called upon to provide transformers to another participating utility if an act of terrorism results in the destruction or long-term disabling of that utility’s electric transmission substations.

On December 18, 2006, E.ON U.S. LLC (“E.ON”), on behalf of the Companies, entered into the Agreement with other utilities across the United States. On September 21, 2006, the Federal Energy Regulatory Commission (“FERC”) approved an application filed before it by EEI on behalf of FERC-jurisdictional signatories to the Agreement, including E.ON.

The Agreement establishes protocols that are intended to guarantee access to spare transformers in the event that the Companies or another utility that has entered into the Agreement suffer the destruction or long-term disabling of one or more electric transmission substations in connection with a “Triggering Event,” which is defined as:

[A]n act or coordinated acts of deliberate, documented terrorism, as defined in the Homeland Security Act of 2002, 6 U.S.C. § 101(15), as the same may be amended from time to time, resulting in (1) the destruction or long-term disabling of one or more electric transmission substations, and (2) the declaration of a state of emergency by the President of the United States pursuant to the National Emergencies Act, 50 U.S.C. § 1601 et seq., as the same may be amended from time to time.¹

The Companies have collectively agreed to commit one 345-138 kV transformer to be subject to call upon a Triggering Event. The original book value of the spare 345-138 kV transformer currently in stock is \$1.5 million and, as a result, the original book value is expected to exceed \$1 million, thereby potentially implicating KRS 278.218.

The Companies anticipate that, in the event a spare transformer is called for and sold under the terms of the Agreement, they would be able to obtain a replacement transformer from the market within a reasonable time and that their ability to provide service to their native load would not be compromised in any way by participation in the Agreement.

¹ Verified Joint Petition of the Companies, Exhibit 1, Agreement, Article I, Section 1.1, Definitions (March 15, 2006).

The Companies further envisage that because a sale under the Agreement would only occur as a result of a Triggering Event, which would constitute a sudden, emergent occurrence created by a defined act(s) of terrorism, the need to obtain Commission approval at the time of the sale would unduly burden and perhaps adversely affect the timely restoration of service.

The Companies opine that, in the event one or both of the Companies were to be directly affected by a Triggering Event and would purchase a transformer under the Agreement, they do not anticipate that Commission approval would be required at that time and are not seeking such approval in their joint petition.

FINDINGS AND CONCLUSIONS

This Commission is an agency of the Commonwealth of Kentucky vested by statute with the authority to fix rates, establish and alter service regulations, and otherwise regulate such practices of jurisdictional utilities, including electric utilities, as provided by statute.² Subject to certain exceptions not relevant herein, KRS 278.218(1) provides that “[n]o person shall acquire or transfer ownership of or control, or the right to control, any assets that are owned by a utility . . . without prior approval of the commission, if the assets have an original book value of one million dollars (\$1,000,000) or more” KRS 278.218(2) provides that “[t]he commission shall grant its approval if the transaction is for a proper purpose and is consistent with the public interest.”³

² KRS 278.040; Public Service Commission v. Southgate, Highland Heights, 268 S.W.2d 19 (Ky. 1954).

³ Emphasis added.

The Companies are electric utility companies subject to the jurisdiction of the Commission. The Commission finds that the proposed transfers, replacements, acquisitions, and related accounting treatment of and for spare transformers as noted in the Agreement are for a proper purpose and consistent with the public interest and should be approved.

However, the Commission finds that nothing in this Order accepting the Agreement should affect the authority of the Commission over rates, services, or any matters whatsoever subject to the Commission's jurisdiction that may come before it, nor should anything contained in this Order be construed as acceptance of any estimate of costs or valuation of property claimed or asserted.

IT IS THEREFORE ORDERED that:

1. The Companies are authorized to transfer spare transformers and perform such other functions as required pursuant to the terms of the Agreement.
2. The Companies shall provide final transfer or, if applicable, acquisition details initially within 30 days of each transaction occurring under the terms of the Agreement and shall supplement such initial reporting with subsequent final documents.
3. This Order in no way affects the authority of the Commission over rates, services, or any matters whatsoever subject to the Commission's jurisdiction that may come before it, nor shall anything herein be construed as acquiescence in any estimate of costs or any valuation of property claimed or asserted. The Commission retains jurisdiction over this subject matter and the Companies to effectuate the provisions of this Order.

Done at Frankfort, Kentucky, this 6th day of March, 2007.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

Executive Director